

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

BRUCE WHITE, on behalf of himself and all others similarly situated	)	CASE NO. 1:11-CV-02615
)	
	)	JUDGE: JAMES S. GWIN
Plaintiffs,)	
	)	DEFENDANT CRST, INC.'S (N/K/A
vs.	)	CRST EXPEDITED, INC.) MOTION TO
	)	REMOVE EXHIBITS A, C, D, E, AND F
CRST, INC.	)	TO PLAINTIFF'S MOTION FOR CLASS
	)	CERTIFICATION FROM PUBLIC
Defendant.	)	RECORD AND EXHIBIT E TO
	)	PLAINTIFF'S OPPOSITION TO
	)	SUMMARY JUDGMENT

Defendant CRST, Inc. (n/k/a CRST Expedited, Inc.) ("CRST"), pursuant to Loc.R. 5.2, moves the Court to remove Exhibits A, C, D, E, and F to Plaintiff's Motion for Class Certification (ECF 57) and Exhibit E to Plaintiff's Opposition to Summary Judgment (ECF 58) from the public docket, and to consider those Exhibits under seal.

CRST respectfully submits the attached Memorandum in Support.

Respectfully submitted,

/s/ Gregory J. Lucht

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MEMORANDUM IN SUPPORT

During the course of discovery, White and CRST agreed that each party could designate certain documents as “confidential,” and previously submitted a Joint Motion for Entry of Stipulated Protective Order, which remains pending with this Court. (ECF 23.) On June 25, 2012, the parties confirmed this agreement and filed a Joint Motion to File Exhibits to Plaintiff’s Motion for Class Certification under Seal (“Joint Motion”), which remains pending with this Court. (ECF 47.)

On July 3, 2012, this Court denied Plaintiff’s Motion for Leave to file an Opposition to Summary Judgment in excess of fifteen pages. (ECF 56.) Less than two hours later, Plaintiff filed, for a third time, his Motion for Class Certification. (ECF 57.) Despite the parties’ agreement, and despite the fact that the parties’ joint motions remain pending with this Court, White attached Exhibits A, C, D, E, and F as publicly filed Exhibits.¹ (ECF 47.) White also filed Exhibit E in support of his Opposition to Summary Judgment, which contains internal financial data regarding CRST and its affiliated companies. (ECF 58.)

CRST produced these documents subject to White’s agreement to maintain the confidentiality of the documents until this Court determined the propriety of the parties’ Joint Motion for Entry of a Stipulated Protective Order. Yet, White filed these Exhibits without attempting to confer with CRST, or even providing notice to CRST of his intent to publicly file these Exhibits.

As set forth in the Joint Motion, the information in these Exhibits is not generally known to persons outside of CRST, its secrecy and confidentiality is maintained, and the documents contain internal proprietary and business information that CRST uses in engaging in direct

¹ CRST also requests the confidentiality of these Exhibits to the extent they are cross-cited in White’s Opposition to Summary Judgment. (ECF 58.)

competition with its competitors. As such, the documents constitute confidential business information that merit this Court's protection to maintain their confidentiality. *Vesta Corset Co., Inc. v. Carmen Founds., Inc.*, No. 97 CIV 5139, 1999 WL 13257, *2 (S.D.N.Y. Jan. 13, 1999) (factors in evaluating claim of confidential business information include the extent to which the information is known outside the business, measures taken to guard the secrecy, the value of the information to the business and its competitors, and the ease with which the information could be properly acquired by others).

Accordingly, CRST moves the Court to remove Exhibits A, C, D, E, and F to Plaintiff's Motion for Class Certification (ECF 57) and Exhibit E to Plaintiff's Opposition to Summary Judgment from the public docket, and to consider those Exhibits under seal.

Respectfully submitted,

/s/ Gregory J. Lucht

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CERTIFICATE OF SERVICE

This is to certify that the foregoing document was filed electronically on the 5th day of July, 2012 in accordance with the Court's Electronic Filing Guidelines. Notice of this filing will be sent to all parties by operation of the Court's Electronic Filing System. Parties may access this filing through the Court's Filing System.

/s/ Gregory J. Lucht

One of the Attorneys for Defendant